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**NEW MEXICO
ENVIRONMENT DEPARTMENT**

Surface Water Quality Bureau
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JAMES KENNEY
Cabinet Secretary Designate

January 23, 2019

Mr. Charles Maguire, Director
Water Quality Protection Division (6WQ)
U. S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Re: State Certification – Ranchland Utility Company, NPDES Permit No. NM0030368

Dear Mr. Maguire:

Enclosed, please find the state certification for the following proposed National Pollutant Discharge Elimination System (NPDES) permit:

Ranchland Utility Company – NPDES Permit No. NM0030368

If any, comments and conditions are enclosed on separate sheets.

U.S. Environmental Protection Agency (USEPA) proposes to regulate discharges under the above-referenced NPDES Individual Permit. A state Water Quality Certification is required by the federal Clean Water Act (CWA) §401 to ensure that the action is consistent with state law (New Mexico Water Quality Act, sections 74-6-1 through 74-6-17, New Mexico Statutes Annotated (NMSA) 1978) and complies with state Water Quality Standards [*State of New Mexico, Standards for Interstate & Intrastate Surface Waters, New Mexico Water Quality Control Commission, 20.6.4 New Mexico Administrative Code (NMAC)*], the Water Quality Management Plan/Continuing Planning Process, including Total Maximum Daily Loads (TMDLs), and the Antidegradation Policy.

Pursuant to State regulations for permit certification (Section 20.6.2.2001 NMAC), USEPA jointly with NMED issued a public notice of the draft permit and announced a public comment period posted on the NMED web November 24, 2018. The public comment period ended on January 8, 2019. NMED received comments from New Mexico Department of Game and Fish, which were considered in this certification.

Sincerely,

/s/ Shelly Lemon

Shelly Lemon, Bureau Chief
Surface Water Quality Bureau

Ms. Anne Idsal, Regional Administrator
Environmental Protection Agency
1445 Ross Avenue
Dallas, TX 75202-2733

January 23, 2019

STATE CERTIFICATION

RE: Ranchland Utility Company – NPDES Permit No. NM0030368

Dear Ms. Idsal:

The New Mexico Environment Department has examined the proposed NPDES permit above. The following conditions are necessary to assure compliance with the applicable provisions of the Clean Water Act Sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law. Compliance with the terms and conditions of the permit and this certification will provide reasonable assurance that the permitted activities will be conducted in a manner which will not violate applicable water quality standards and the water quality management plan and will be in compliance with the antidegradation policy.

The State of New Mexico

- ☒ (X) certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law
- ☐ () certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law upon inclusion of the following conditions in the permit (see attachments)
- ☐ () denies certification for the reasons stated in the attachment
- ☐ () waives its right to certify

In order to meet the requirements of State law, including water quality standards and appropriate basin plan as may be amended by the water quality management plan, each of the conditions cited in the draft permit and the State certification shall not be made less stringent.

The Department reserves the right to amend or revoke this certification if such action is necessary to ensure compliance with the State's water quality standards and water quality management plan.

Please contact Sarah Holcomb at (505) 827-2798, if you have any questions concerning this certification. Comments and conditions pertaining to this draft permit are attached.

Sincerely,

/s/ Shelly Lemon

Shelly Lemon
Bureau Chief
Surface Water Quality Bureau

Ranchland Utility Company
State Certification of the Proposed NPDES Permit
NM0030368
January 23, 2019

The following revisions are necessary to ensure that discharges allowed under the National Pollutant Discharge Elimination System (NPDES) permit protect State of New Mexico water quality standards (WQS) adopted in accordance with §303 of the Clean Water Act (CWA) and the New Mexico Water Quality Act [NMSA 1978, §§ 74-6-1 to -17]. State of New Mexico (State) WQS are published in the document entitled Standards for Interstate and Intrastate Surface Waters, New Mexico Water Quality Control Commission (WQCC), 20.6.4 New Mexico Administrative Code (NMAC) as amended by the WQCC and approved by the United States Environmental Protection Agency (EPA or USEPA) as of August 11, 2017.

NPDES regulations at 40 CFR 122.44(d)(1)(i) require that permit *limitations must control all pollutants or pollutant parameters... which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard...*

Conditions of Certification:

There are no conditions of certification.

Comments of Certification:

1. 20.6.4.98 *Intermittent Waters: All non-perennial surface waters of the state, except those ephemeral waters included under section 20.6.4.97 NMAC or classified in 20.6.4.101-899 NMAC.*
 - A. *Designated uses: livestock watering, wildlife habitat, marginal warmwater aquatic life and primary contact.*
 - B. *Criteria: the use-specific criteria in 20.6.4.900 NMAC are applicable to the designated uses, **except** that the following site-specific criteria apply: the monthly geometric mean for E. coli bacteria 206 cfu/100 mL or less, single sample 940 cfu/100 mL or less.*

EPA's proposed permit in Part I, and the Fact Sheet Part C.4.b Bacteria state:

"State WQS for E. coli bacteria, listed in 20.6.4.900.D NMAC for primary contact require the monthly geometric mean to be 126 colony forming units (cfu)/100 mL or less; single sample 410 cfu/100 mL or less. EPA has included these limitations...for E. coli."

20.6.4.98 NMAC requires that the proposed permit use the site-specific criteria for E. coli. NMED requires the permit limitations reflect the NMAC 20.6.4.98 site specific criteria for E. coli.

2. Regulations at 40 CFR §122.45(f)(1) require all pollutants limited in permits to have limits expressed in terms of mass such as pounds per day. When determining mass limitations for POTW's, the plant's design flow is used to establish the mass load. Mass limitations are determined by the following mathematical relationship:

Loading in lbs/day = concentration in mg/l * 8.35 (lbs/l)/(mg/MG) * design flow in MGD

According to the application from 2012 and the current application for this permit, the design flow is stated to be 0.4 MGD.

The mass limitations in this permit for Biochemical Oxygen Demand (BOD, and Total Suspended Solids (TSS) are:

BOD = 30 mg/L * 8.34 * 0.4 MGD = 100 lbs/d (30-d avg)
 45 mg/L * 8.34 * 0.4 MGD = 150 lbs/d (7-d avg)

TSS = 30 mg/L * 8.34 * 0.4 MGD = 100 lbs/d (30-d avg)
 45 mg/L * 8.34 * 0.4 MGD = 150 lbs/d (7-d avg)

The proposed permit limitations are:

BOD = 94 lbs/d
 141 lbs/d

TSS = 94 lbs/d
 141 lbs/d

NMED requests that the mass loadings be changed accordingly to reflect the correct mass limitation calculation.